

PROJECT REPORT
MACEDONIAN COURT MODERNIZATION PROJECT

1. Project Name: Macedonia Court Modernization Project
2. Consultant Name: Richard B. Hoffman
3. Dates of Consultancy: June 27—July 10, 2004
4. Names and Dates of Counterparts Met During Consultancy:
 - June 29: Reviewed condition of court records at Tetovo Basic Court for use in first data collection for Criminal Closed and Pending Cases Survey with Pilot Court Manager Gordana Stojanova and Tetovo Pilot Court Coordinator Vulnet Pacuku.
 - June 30: Conducted Training in Conduct of Criminal Closed and Pending Cases Survey at Meeting at Stip Basic Court with Pilot Court Manager Gordana Stojanova and Pilot Court Coordinators Emilija Paparova (Stip), Jasmina Siskovska (Bitola), Gordana Labovska (Struga), Srecko Milovski (Kriva Palanka), Filip Pasoski (Prilep), Metodi Bojadziski (Kocani), and Vulnet Pacuku (Tetovo).
 - July 6, 2004: Supervised first day of data collection at Tetovo Basic Court of caseload information for Criminal Closed and Pending Cases Survey with Court Management and Administration Advisor, Pilot Court Manager and Pilot Court Coordinators.
5. Description of Consultancy: please see Consultant Report below
6. Attachments
 - I: Criminal Closed Case Survey Design, with Revised Code List B
 - II.: Criminal Pending Case Survey Design
 - III.: Sample Sizes for Criminal Closed and Pending Case Surveys
 - IV.: Data Elements of Criminal Closed and Pending Case Surveys
 - V: Interim Report Containing Initial Assessment Based on Results of Continuance Pre-Test and Tentative Findings From First Survey Site

CONSULTANT REPORT

Rule of Law Assistance Project

Macedonian Court Modernization Project

June-July 2004

**Court Administration and Management:
Design and Testing of Surveys of Criminal Closed and Pending Basic Court Cases**

DPK Consulting

United States Agency for International Development (USAID)

Consultant: Richard B. Hoffman, Justice Strategies
Washington, D.C.

CONSULTING ACTIVITIES

Consulting was conducted over an approximately two-week period in June-July, 2004. Meetings were held with several MCMP staff members, including the Court Administration and Management Advisor, the Pilot Court Manager, the Information Technology Specialist, and the seven Pilot Court Coordinators. Training was provided at a meeting of the Pilot Court Coordinators at Stip on June 30, 2004, and supervision of initial data collection activity occurred at Tetovo on July 6, 2004. The consulting assignment drew on some activities that had been conducted as a pre-test during the consultant's previous visit in March-April 2004, during which relatively modest amounts of data were collected to determine the feasibility of including the categories collected in the instant closed and pending criminal case surveys.

OVERVIEW AND SUMMARY OF CONSULTANCY ACTIVITIES

The purpose of the consultancy was to provide an assessment of case processing time in both closed and pending criminal cases in the seven pilot Macedonia Basic Courts. Comparison will be made of case types (charges), disposition methods, aging of caseload and major interim event data where available consistent with the Court Performance Standards measurements. The following is a summary of the consultant's range of activity during the consultancy:

Survey Design

- Designs, forms, and reports used for the 2003 civil case surveys were reviewed and utilized as practicable to provide the basis for the comparable materials for the instant surveys.
- Design descriptions and revised data forms appropriate to criminal case data were prepared.
- New code lists were drafted for (a) offenses, (b) reasons for continuances, and (c) dispositions. In each instance, these were entirely different from the civil code lists.
- Results of the limited pre-test conducted in April 2004 during the consultant's previous visit were reviewed for use in the current survey design.
- Case sampling methods were also reviewed and significantly modified: programs were utilized to (1) determine appropriate sample size and (2) provide randomized identification of the sample items to be drawn in each instance.
- The draft survey designs, including code lists and forms, were distributed to selected MCMP staff and to Pilot Court Coordinators for comment.
- PC-based software to support the data collection and analysis was reviewed and identified for use.
- The consultant and the Pilot Court Manager reviewed the court registers and case files to be examined during the first data collection visit on June 29, 2004, in Tetovo.

- Discussions with two of the Pilot Court Coordinators were undertaken to anticipate problems in connection with the disparate ways in which the court registers are maintained in the different courts, viz., two courts only enter register data after a case is completed.

Training, Data Collection and Analysis

- A training session was conducted at Stip on June 30, 2004, for Pilot Court Coordinators by the consultant and the Pilot Court Manager.
- Further instruction, receipt of comments, and revision of forms and procedures was provided at Tetovo on July 6, 2004, prior to and during the first day of data collection by the consultant and the Court Administration and Management Advisor.
- The code list for reasons for a court to grant continuances was significantly revised during the initiation of data collection to reflect the condition of the data and the practices disclosed by early review.
- Data was collected in the Tetovo Basic Court for both the closed and pending criminal case survey from the court registers and case files.
- Some initial analysis was done in a limited manner by physical review of the data collected in Tetovo.
- Arrangements were made with the Information Technology Specialist for the data elements outlined by the consultant to be utilized in programming to generate the findings sought, and in conjunction with the Pilot Court Manager, arrangements proceeded for data entry of the data collected to begin promptly.

Further Performance of Specified Tasks

Data collection is scheduled to be completed in early August 2004. Assessment and analysis of the findings of the survey will be performed after the data is collected, entered, and examined through automated data processing to generate findings. These will be presented and analyzed in written form and at workshops, optimally in September 2004, for the Pilot Courts, including the court presidents and coordinators, as well as MCMP staff and other justice system personnel. During the interim, the consultant will maintain electronic contact with the concerned MCMP staff to participate in consideration of any necessary modifications or refinements to the data collection and analysis process.

REPORT ON PROGRESS OF SURVEY

Some limited and tentative findings from data collection at the first survey test site are contained in Attachment V, the Interim Report. A memorandum was also prepared for project staff listing a very small number of problems encountered in review of the first data from that site. The project staff may now take the necessary steps to rectify these matters.

The remaining pilot court sites are scheduled to be visited by teams of data collectors (made up of the pilot court coordinators) during the remainder of July and the first week of August. The data specificity sought is ambitious; an example is that 37 different reasons for a continuance of a case are listed for use by the collectors. This list is newly revised as a result of what was learned during the start of data collection at the first site.

The only other problem extant with respect to the survey relates to two aspects of the source material: the case files and the case registers. The first issue relates to the possibility that the files or registers may not be sufficiently complete for the data collection to be successful in each pilot court. The project staff has also been assured that in one large court where the data are maintained on a computerized system, it will be possible to obtain the data sought by the survey instruments.

The second issue is more troublesome but steps are being taken in an effort to resolve it. In two of the pilot courts, case processing information is maintained in the case files but is not entered in the court case register until the case is completed. This practice apparently has been followed in these courts for many years: it is not a good practice because it makes it impossible to use the register to determine the status of a case at any time. Because of this practice, in the two courts the only source of information regarding pending cases is the case file. Pending case files are generally kept in the chambers of the judge assigned to the case and are not available to the public. The project staff is seeking to obtain the cooperation of the judges who hear criminal cases in these courts to use the pending case files to obtain data on these cases. It is not yet clear whether this effort will prove successful.

There is no good reason why all court case files should not be open and available for public viewing. In Macedonian courts, public access to all court case files is strictly limited: those seeking to review a file or to copy a document from one must obtain permission from the judge in the case or the responsible official in charge of the case intake office of the court. Fear is expressed that if total public access were permitted, court staff would need to spend much of their day supervising the public in its perusal of case files in order to protect the integrity of the files. Although there are incidents of theft or alteration in many jurisdictions, this prospect has not been regarded as significant enough to forestall public access to court files. Privacy concerns can be met by providing for closing or sealing of files in appropriate situations.

Conclusion

The criminal closed and pending case surveys, when completed, will enable the Macedonian pilot courts to determine where changes in the criminal case process are necessary in order to improve the pace and the effectiveness of disposition of these cases. Although much was learned about the state of court records and how best to conduct a survey of this kind in 2003 when a comparable survey of closed and pending civil cases was completed, the criminal process operates in a significantly different manner from the

civil case litigation process. Most jurisdictions recognize the need for criminal justice to proceed in a fair and expeditious manner. Defendants seeking to clear their names are entitled to speedy trials as a right and for the benefit of the public as well as all parties, the court has a responsibility to expedite all criminal cases in the interests of fairness as well as to satisfy normal demands for swift justice. Fairness is aided by expeditious processing, since there is less likelihood of witnesses failing to remember what they saw or heard and conversely greater chance that they will be both available and competent to provide evidence.

As is also discussed in the Interim Report, the criminal case process is increasingly viewed as one that encompasses more than only the court segment but the entire span from the investigation of a crime through disposition and any stages that follow it. What the police, the investigation judge, the prosecutor, the defense lawyer, the court, and correctional agencies each do affects what steps the others take and when they take them. This has become most evident in the application of information technology to the justice system. It should eventually be standard practice for the initiating agency, whether it is the police or the investigation judge, to enter basic information about the case and for each succeeding component agency in the system to receive that information without the need to re-enter it. Appropriate protections are built into what are now called integrated criminal justice information systems to protect information that should remain within the exclusive province of each component.

It is also important to reiterate the need for a cultural shift in attitudes in the higher levels of the judiciary in Macedonia. This may not be so readily achieved. For example, the Supreme Court collects extensive data on case numbers from all courts. It is not clear what review occurs by the court or its staff, but the data are submitted as a report to the Ministry of Justice. Neither the Court nor the Ministry makes these data public, although some of it may become available after a period of time has passed. This secrecy is a holdover of the previous regime. Courts in the rest of the world—North America, Western Europe, Asia—all publicize data on their work in the hope of winning support. The attitude here seems to be that this information is not appropriate for public release. Despite the glaring fact that the Macedonian courts' image needs a good deal of improving, winning agreement to change this cultural attitude will be no simple task.



Macedonia Court Modernization Project

11 Oktomvri 40, 3rd. Floor, 1000 Skopje
Tel: (389 2) 215-095; Fax: (389 2) 231-212
info@courtmodernization.com
www.courtmodernization.com



July 8, 2004

Pilot Court *Closed* Criminal Case Survey Design

Introduction and Purpose

A **Closed Case Survey** is a tool used to examine a randomly selected, representative sample of source documents, e.g., case registers of actions or case files, to obtain detailed information about a court's case inventory, e.g., case number, date of filing, scheduled events, elapsed time between scheduled events and case dispositions in a designated pilot court.

The purpose of a closed case survey is to use the representative case processing information collected from the source documents to measure and evaluate the caseflow management process, establish baseline data and answer the following questions:

- ✚ What is the pace of litigation in the pilot court?
- ✚ What caseflow factors impact the pace of litigation? How?
- ✚ Do problems associated with notification of the parties to a case cause delay?
- ✚ What happens at scheduled court hearings?

The **MCMP** referred to several case processing survey methodologies for this survey—DPK's **Guidelines for Closed Case Survey and Data Collection**, which has been field tested and validated in a number of international pilot court assessments, the National Center for State Courts' (United States) **Court Performance Standards and Measurement System Guidelines** (1996), and Barry Mahoney, *et al.*, **How to Conduct a Caseflow Management Review** (NCSC, 2d ed. 1992)—and has adapted these methodologies as necessary to address the instant conditions in the Macedonian courts.

Data collection forms and elements of both methodologies have been adapted to reflect the current processes and terminology used in the Macedonia Basic Courts. A focus group comprised of judges and administrative staff in the Prilep Basic Court reviewed the data collection instruments and assisted with revisions required to effectively survey closed civil cases in selected pilot courts. The closed civil case data collection instrument was field tested in Prilep Basic Court during July 2003. The closed criminal case data collection instrument was reviewed by the pilot court coordinators in June 2004.

Survey Methodology

A. Survey Design and Sample

The survey design (see Closed Criminal Case Data Collection Form 1) requires collection of 12 elements of trial court case information and four elements of appellate court case information for each case, as available. A second data collection form (see Closed Criminal Case Data Collection Form 2) captures detailed information about **all** scheduled events in each of the representative sample cases. The survey information is obtained by reviewing the general criminal case registers and the original case files, including the investigative case files, in the respective pilot court. The sample from the seven courts will be set at a level to assure a 95% confidence level $\pm 5\%$. Where possible, based on total case volume, random number selection will be used by MCMP staff to draw the sample to be used for subsequent review and analysis.

Closed Criminal Case Data Collection Form 2 is used to record detailed information about each consecutively scheduled event, e.g., trial, in a respective sample case. These data generally will be found in the minute sheets, notes of each court hearing scheduled, and in notes of the court summoners or notifiers, located in the case file. For each scheduled trial date, two data elements are gathered: (1) the date and description of the scheduled event, and (2), the action taken by the judge, if any, at the scheduled event.

From the data gathered in the survey, an array of information about the Macedonia criminal process becomes available: for example, the time elapsed between the filing and disposition by type of case, the time between scheduled events, and the number of times a case must be continued before it is disposed or closed. These data can be of significant value in understanding the reasons for delay and can greatly assist the court in determining specific strategies which, if adopted and *uniformly* followed, will go a long way toward solving the problems identified.

In order to obtain an accurate picture of the pace of litigation in the Basic Courts, a representative sample of cases closed in calendar year 2003 will be randomly selected. As a result, cases that may have taken many years to reach disposition will be included in the sample of cases closed in 2003.

Closed cases will be selected for the sample using a randomly systematized sample. Full data collection forms will be completed by pilot court coordinators trained in data collection procedures under the direction of the MCMP Pilot Court Manager. All original data forms will be dated and initialed by the responsible intern team member and submitted to the alternate team for quality control and random accuracy check. Data entry will then be accomplished in Skopje by MCMP staff using MS Excel, MS Access or SPSS software. Survey results for each selected pilot court will be entered, compiled, analyzed, summarized and reported in draft form to the respective pilot court president judge and court secretary for review and comment. Final closed case survey results will be shared with the PAC and all participating pilot courts.

In order to enhance the picture of the pace of litigation in the Basic Courts, a representative sample of pending cases will also be randomly selected. Factors collected and analyzed will include the type of charges, the date the case or complaint was filed, and the date of the last or most recent scheduled event, e.g., hearing. The results will also be reported to each pilot court.

B. Data Elements and Descriptions

For **each** data collection field on the survey form, a description of what information is being sought, assumptions about the meaning of the data, and reasons for collecting and uses of the data are discussed below. These definitions will also form the basis for a data dictionary used to automate the analysis of the closed case survey data.

CRIMINAL CASE DATA COLLECTION FORM 1 (Questions 1 – 16)

1. Case Control Number

Each sample case will be assigned a unique control number for purposes of tabulating and analyzing the data, and reporting comparative results.

2. Court Case Number

This is the case number assigned by the respective court secretary of the selected pilot court when the case is initially filed and entered in the case register. The case number is recorded only for purposes of tracking and control of data quality and will facilitate identifying the original case file to correct incomplete or missing information in the database, as necessary. To protect the integrity of case information no individual party names will be collected and no data will be reported by case number; only aggregate data from groups of cases will be reported.

3. Date of Police Notice or Other Document Initiating Investigation

This date, which is reported by the court on the standard form submitted to the central statistical office in Skopje, will be taken from the investigative case file normally located with the regular case file. The intent of this element is to provide a standard date, recorded in dd/mm/yyyy format, for identifying the date marking the initiation of the criminal justice process.

4. Date Case Filed

The date the case was filed (or registered) with the court is entered in this field. This date is considered the point at which the court first acquires active jurisdiction over the case (the investigative phase under the direction of the investigative judge is considered as a separate phase of the overall criminal justice process). The date will be the start point for calculating total elapsed time from filing to disposition of each case. It is recorded in dd/mm/yyyy format.

5. Are the Defendants Represented by Counsel?

This data element identifies those cases in which the defendants are represented by legal counsel. The question allows comparison of cases where one or more of the defendants are represented by an attorney with those cases where the defendants are not represented by legal counsel. The absence of an attorney may require greater involvement by the judge either because the defendant is less prepared or because the judge must exercise more care to ensure that the defendants' rights are protected. It is also a factor that can be useful in the review of filing to disposition measurements and for comparison of caseloads among the selected pilot courts. Accepted values are Y= Yes and N= No.

6. Type of Charges

This data element describes the type or nature of the case (See Code List A) based on the statutory scheme of criminal offenses. It identifies categories of cases which may have similar or unique case

processing requirements or problems. The major categories of cases identified are uniform across all courts, and there will be a unique legal procedure for each category of case based upon complexity and amount of judge time required to reach disposition. Since many cases contain more than a single criminal charge, provision is made in this data element for entry of the two most significant charges.

It is absolutely essential that this element be accurately reported, and that the up to two charges entered fit into the criminal offense categories on the list.

7. Is There More Than One Defendant?

This data element describes whether the case involves multiple defendants. Accepted values are Y= Yes and N= No. Cases involving more than one defendant are usually more complex and require greater amounts of judicial time to resolve. It will be useful to separate these cases in the analysis to determine whether they take longer to process or consume more resources.

8. Date Defendant Detained

This data element identifies the date that a criminal defendant is ordered detained in custody by the court. While not all defendants are ordered detained, it is important to know when the defendant has been so incarcerated because this occurs prior to determination of guilt of innocence and because there is consequently more concern that the process proceed most expeditiously.

9. Date First Event Scheduled

This date of the first scheduled court event, e.g., hearing, is entered in this field. This date is important in establishing the first date of “early intervention” by the court in the respective case. The date can represent any event in which both parties are scheduled to appear: a pretrial conference, settlement conference, hearing, or trial. Studies have proven that the timing and the nature of this initial event can have a meaningful impact on the future of the case. This date is recorded in dd/mm/yyyy format.

10. Number of Postponements

This information will be obtained from a review of (1) the court criminal case registers and (2) the case files. Postponements or continuances are usually listed in column 13 of the criminal case register but some may only be discernible from a review of the case file where the minutes of proceedings are located. Granting frequent postponements contributes to delay and backlog in case processing, which is why it is important to determine (see Form 2) the reasons why a case has been postponed.

11. Date Verdict Filed

The date the case was concluded or disposed *in writing* by the Basic Court is entered in this field. Often the decision may be announced at the final hearing date, but this is the date on which the court tries the case to conclusion, settles the case, dismisses the case, or otherwise disposes of the case and enters its written findings. Post judgment or execution of the judgment actions that occur after the case is concluded or disposed of are not included in the elapsed time to disposition. This date will be used to calculate the total elapsed time the case was pending with the court. This date is recorded in dd/mm/yyyy format.

Some courts do not consider a case closed until after a period of time to appeal has elapsed without an appeal being taken, or the case is remanded to the trial court after an appeal is taken.

FOR PURPOSES OF THIS SURVEY the date of the original trial decision or judgment is entered in writing is considered the date of case conclusion.

12. Disposition Type

See Code List C – Types of Disposition

13. Was the Case Appealed?

In many courts a case is considered closed when final judgment is entered in the register, regardless of whether it is appealed to a higher court. The appeal rate is relevant to this case processing study to the extent that it may be related to overall case processing time. Accepted values are Y= Yes; N= No.

14. Case Appealed By?

It is useful in determining the effectiveness of the criminal justice process to know how many cases are being appealed by the prosecution or by the defense. Accepted values are P= Prosecution, D= Defense.

15. Date Appeal Filed

This is the date that the notice or application of appeal was filed. This date is recorded in dd/mm/yyyy format.

16. Date Appellate Decision Filed

This is the date upon which an appeal to the Court of Appeals, the intermediate appellate court, has been completed and a decision has been filed. This element allows the measurement of the time which elapses from the filing of an appeal to its disposition. While this time may not reflect trial court delay, it provides information on delay from Basic Court judgment to final verdict after appeal. This date is recorded in dd/mm/yyyy format.

CRIMINAL CASE DATA COLLECTION FORM 2 (Questions 17 and 18)

This information is gathered from the minute sheets in the case file which describe what happened at each hearing. Record EACH SCHEDULED COURT APPEARANCE in each case.

17. Date of Scheduled Event

A brief description and date of each scheduled event is entered in this column in consecutive (date) order. Begin with the date of the first event scheduled following the initial filing of the case. Information about the scheduled event should be recorded even if no hearing actually took place, e.g., the case was reconciled prior to hearing. Comprehensive scheduled event information facilitates analysis of the caseflow management process and the calculation of the time that elapses between scheduled events.

18. What Happened at the Hearing?

The response to this question explains what actually occurred at each consecutively scheduled event in the case. An analysis of this information will explain the reasons for delay and help in the formulation of a strategy or strategies for improving the caseflow management process and reducing the number of appearances required to dispose of the case. **Code List B** provides a range of choices from minimal judicial involvement to maximum involvement in hearing witnesses and disposing of the case.

**Macedonia Pilot Court – Closed Case Survey
Criminal Case Data Collection Form 1**

1	Case Control Number					
2	Court Case Number (1)					
3	Date of police notice initiating investigation (Day/Month/Year)					
4	Date Case Filed (Day/Month/Year) (2)					
5	Represented by Counsel? (Y/N)					
6	Type of Charges – Two Principal Charges (from Code List A) (6)					
7	More Than One Defendant? (Y/N)					
8	Defendant Detained (Day/Month/Year) (7)					
9	Date First Trial/Hearing Scheduled (Day/Month/Year) (13)					
10	Number of postponements (13)					
11	Date Trial Court Decision Filed (Day/Month/Year) (14-23)					
12	Disposition Type (See Code List C)					
13	Was Case Appealed? (Y/N)(29)					
14	Case Appealed by? (P/D) (29)					
15	Date Appeal Filed (Day/Month/Year) (29)					
16	Date Appellate Decision Filed (Day/Month/Year) (31)					

	<p>COMMENTS:</p> <p>(Using this form, please note any exceptional or unusual issues, e.g., missing data, problems with the reliability of information, questions, observations, et cetera.)</p>					
--	---	--	--	--	--	--

Criminal Case Data Collection Form 2

RECORD EACH SCHEDULED COURT APPEARANCE IN CASE NUMBER _____

17. Date Trial Scheduled (Day/Month/Year)	18. What Happened on the Trial Date? (Code List B)

NOTE: If there are more trials, please use additional pages to document all trials.

Data Collected By: _____ Data Entered By: _____

Data Collected On: _____ Data Entered On: _____

CODE LIST A – TYPE OF CLAIM

CODE LIST A – CRIMINAL CASE CHARGES, most frequent ones	
1 - CRIMES AGAINST LIFE AND BODY	
1.01 - Murder	
1.02 - Body injury	
1.03 - A grave body injury	
1.04 - Participation in a brawl	
1.05 - Threatening with a dangerous instrument during a brawl or a quarrel	
1.06 - Exposure to a danger	
1.07 - Not given help	
2 - CRIMES AGAINST THE FREEDOMS AND RIGHTS OF HUMANS AND CITIZENS	
3 - CRIMES AGAINST ELECTIONS AND VOTING	
4 - CRIMES AGAINST WORK RELATIONS	
5 - CRIMES AGAINST HONOR AND REPUTATION	
5.01 Defamation	
5.02 Insult	
6 - CRIMES AGAINST SEXUAL FREEDOM AND SEXUAL MORALITY	
6.01 Rape	
6.02 Mediation in conducting prostitution	
7 - CRIMES AGAINST MARRIAGE, FAMILY AND YOUTH	
7.01 Not paying sustenance (alimony)	
8 - CRIMES AGAINST HUMAN HEALTH	
8.01 Unauthorized production and release for trade of narcotics, psychotropic substances and precursors	
8.02 Enabling the tasking of narcotics, psychotropic substances and precursors	
9 - CRIMES AGAINST ENVIRONMENT	
10 - CRIMES AGAINST PROPERTY	
10.01 - Theft	
10.02 - Severe theft	
10.03 - Robbery	
10.04 - Embezzlement	
10.05 - Fraud	
10.06 - Extortion	
10.07 - Usury	
10.08 - Covering up	
11 - CRIMES AGAINST CULTURAL MONUMENTS< ARCHIVE MATERIALS AND NATURAL RARITIES	
12 - CRIMES AGAINST PUBLIC FINANCES, PAYMENT OPERATIONS AND THE ECONOMY	
12.01 Counterfeiting money	
12.02 Prohibited trade	
12.03 Trafficking	
12.04 Tax evasion	
12.05 Falsifying or destruction of business books	
13 - CRIMES AGAINST THE GENERAL SAFETY OF PEOPLE AND PROPERTY	
14 - CRIMES AGAINST SAFETY IN PUBLIC TRAFFIC	
14.01 Endangering traffic safety	
14.02 Severe crimes against safety of people and property in traffic	
15 - CRIMES AGAINST THE STATE	

16 - CRIMES AGAINST THE ARMED FORCES
16.01 Not responding to a summons and avoiding military service
16.02 Avoiding military service by incapacitating or deceit
17 - CRIMES AGAINST OFFICIAL DUTY
17.01 Misuse of official position and authorized
17.02 Receiving a bribe
17.03 Falsifying an official document
18 - CRIMES AGAINST THE JUDICIARY
18.01 Giving a false statement
19 - CRIMES AGAINST LEGAL TRAFFIC
19.01 Falsifying a document (forgery)
19.02 Using a document with false content
20 - CRIMES AGAINST THE PUBLIC ORDER
20.01 Preventing an official person in performing an official act
20.02 Attack upon an official person, when performing security activities
20.03 Act of violence
20.04 Autocracy
20.05 Unlawful keeping weapons or explosive materials
21 - OTHER

CODE LIST B—REASONS FOR CONTINUANCES

Code Number	Reason
For all requests, indicate source of request, when known, as follows: A —Request of Prosecutor B —Request of Defense C —Imposed by Court	
1	General category
1.1	Witness Unavailable
1.11	Expert Unavailable
1.12	Expert Ill
1.13	Witness Ill
1.14	Witness Not Properly Notified
1.15	Expert Not Properly Notified
2	Defendant Unavailable
2.21	Defendant Ill
2.22	Defendant Flight
2.23	Defendant Not Brought From Jail
2.24	Defendant Not Properly Notified
2.25	Defendant Notified But Did Not Appear
3	Defense Attorney Unavailable
3.1	Attorney Ill
3.2	Attorney in Another Trial
3.3	New Attorney
3.4	Evidence Not Obtained in Time
3.5	Attorney Notified But Did Not Appear
4	Prosecutor Unavailable
4.1	Prosecutor in Another Trial
4.2	Evidence Not Obtained in Time
4.3	Prosecutor Notified But Did Not Appear
5	Judge Unavailable
5.1	Judge Ill
5.2	Judge in Another Trial
5.3	New Judge Assigned
6	Court Imposed
6.1	More Time Needed for Trial
6.2	Referred for Expert Report
7	Death of Party or Witness
8	Co-Defendant Absent
9	Private Party (Prosecution) Settlement
10	Request for Change
X	Stay for Observation
Y	Case is Concluded

CODE LIST C – TYPE OF DISPOSITION/VERDICT

1 – Case terminated because:
1A – Public or private prosecutor exceeded allowed time to submit case (art. 255, ¶ 2)
1B – (1) Alleged act is not a crime
(2) Circumstances exclude criminal responsibility
(3) Application of security measures to ensure defendant's appearance
(a) not possible under statute or
(b) not requested by prosecutor or
(c) not approved by competent state agency
(4) Insufficient evidence brought against defendant (art. 262).
1C – Withdrawn by Prosecutor (art. 278)
1D – Public or private prosecutor or attorney fail to appear though summoned (art. 291, ¶ 2)
2 – Charges dismissed because:
2A – Court not competent to find verdict
2B – Prosecutor does not request charges to proceed to trial
2C – Prosecutor withdraws from the prosecution during trial
2D – Complainant withdraws, or lacks approval or if the competent state agency withdraws
2E – Defendant already convicted for the same crime, released from the charges, or case against him is interrupted with a legally valid decision
2F – Defendant receives amnesty, or release from the prosecution, or prosecution cannot be undertaken due to obsolescence or other circumstances exclude prosecution.
3 – Verdict releases the accused from charges:
3A – Alleged crime held not a crime according to the law
3B – Circumstances exclude criminal responsibility
3C – Not proved that accused has committed charged crime
4 – Defendant found guilty
5 – Decision made for a court reprimand (conditional sentence)



Macedonia Court Modernization Project

11 Oktomvri 40, 3rd. Floor, 1000 Skopje
Tel: (389 2) 215-095; Fax: (389 2) 231-212
info@courtmodernization.com
www.courtmodernization.com



July 8, 2004

Pilot Court *Pending* Criminal Case Survey Design

Introduction and Purpose

A **Pending Case Survey** is a tool used to examine a randomly selected, representative sample of source documents, e.g., case registers of actions or case files, to obtain detailed information about the age, types and status of cases which are still open and pending with the court. The data collected will be used to measure and evaluate the caseflow management process, establish baseline data and answer the following questions:

- ✚ How old are the pending cases?
- ✚ What types of cases are pending?
- ✚ What is the status of each pending case, e.g., active or inactive?
- ✚ What does the pilot court's backlog of pending cases say about caseflow management in the respective pilot court?

The data collection instrument will be field tested in the Tetovo Basic Court during July 2004.

Survey Methodology

A. Survey Design and Sample

The survey design requires the entry of five data elements for each case. Depending upon the size of the court and the manner in which the court maintains its files, the survey information is obtained by reviewing the general criminal case registers and the original case files, including the investigative case files, in the respective pilot court. The representative sample from each of the seven courts will be set at a level to assure a 95% confidence level $\pm 5\%$. Where possible, based on total case volume, random number selection will be used by MCMP staff to draw the sample to be used for subsequent review and analysis.

The data for the sample cases will generally be obtained from the court's register. This case register tracks the date of filing, the type of charges, key scheduled events in the case and the date of the last appearance or action by the judge or the parties.

Answers to survey questions one through five should be available from the case register will be entered on Pending Civil Case Data Collection Form 1.

From the data gathered during this survey, an array of information about the Macedonia criminal judicial process will become available. For example, the age of the pending cases, the type of the pending cases, the time that has elapsed since the occurrence of the most recent scheduled event and whether the case is active or inactive. This data can be of significant value in understanding the reasons for delay and can greatly assist the court in determining specific strategies which, if adopted and *uniformly* followed, will go a long way toward solving the problems identified.

Data collection forms will be completed by pilot court coordinators trained in data collection procedures and directed by the Pilot Court Manager. All original data forms will be dated and initialed by the responsible intern team member and submitted to the alternate team for quality control and a random accuracy check. Survey results for each selected pilot court will be entered, compiled, analyzed, summarized by MCMP staff using MS Excel, MS Access or SPSS software and reported in draft form to the respective pilot court president judge and court secretary for review and comment. Final pending case survey results will be shared with the PAC and all participating pilot courts.

B. Data Elements and Descriptions

For **each** data collection field on the survey form, a description of what information is being sought, assumptions about the meaning of the data, and reasons for collecting it are discussed below. This information will also be used to create a data dictionary to facilitate the automation and analysis of the pending case survey data.

PENDING CIVIL CASE DATA COLLECTION FORM 1 (Questions 1 – 5)

19. Case Control Number

Each sample case will be assigned a unique control number for purposes of tabulating and analyzing the data, and reporting comparative results.

20. Court Case Number

This is the case number assigned by the respective court secretary of the selected pilot court when the case is initially filed and entered in the case register. The case number is recorded only for purposes of tracking and control of data quality and will facilitate identifying the original case file to correct incomplete or missing information in the database, as necessary. To protect the integrity of case information, no individual party names will be collected and no data will be reported by case number; only aggregate data from groups of cases will be reported.

21. Type of Charges

This data element describes the type or nature of the case (See Code List A) based on the statutory scheme of criminal offenses. It identifies categories of cases which may have similar or unique case processing requirements or problems. The major categories of cases identified are

uniform across all courts, and there will be a unique legal procedure for each category of case based upon complexity and amount of judge time required to reach disposition. Since many cases contain more than a single criminal charge, provision is made in this data element for entry of the two most significant charges.

It is absolutely essential that this element be accurately reported, and that the up to two charges entered fit into the criminal offense categories on the list.

22. Date Case Filed

The date the case was filed (or registered) with the court is entered in this field. This date is considered the point at which the court first acquires active jurisdiction over the case (the investigative phase under the direction of the investigative judge is considered as a separate phase of the overall criminal justice process). The date will be the start point for calculating total elapsed time from filing to disposition of each case. It is recorded in dd/mm/yyyy format.

23. Date Last Event Scheduled

This date of the last (or most recent) scheduled event, e.g., trial, is entered in this field. This date is important in establishing the last date the court had any contact or involvement with the parties to the case. The date can represent any event in which both parties are scheduled to appear at a pretrial conference, settlement conference, hearing, or trial. This date is recorded in dd/mm/yyyy format. This data element will facilitate an analysis of the age of the case and whether it is active or inactive. If it has been inactive for a significant period of time, e.g., six months, the court may decide to notify the parties to indicate why it should not be dismissed for lack of prosecution. If no reasonable response is received, the court should dismiss or “purge” the case from its inventory of pending cases.

**Macedonia Pilot Court – Pending Case Survey
Criminal Case Data Collection Form**

1	Case Control Number					
2	Court Case Number					
3	Type of Charges (See Code List A)					
4	Date Case Filed (Day/Month/Year)					
5	Date of Last Scheduled Event (Day/Month/Year)					

Data Collected By: _____

Data Entered By: _____

Data Collected On: _____

Data Entered On: _____

CODE LIST A – TYPE OF CLAIM

CODE LIST A – CRIMINAL CASE CHARGES, most frequent ones
1 - CRIMES AGAINST LIFE AND BODY
1.01 - Murder
1.02 - Body injury
1.03 - A grave body injury
1.04 - Participation in a brawl
1.05 - Threatening with a dangerous instrument during a brawl or a quarrel
1.06 - Exposure to a danger
1.07 - Not given help
2 - CRIMES AGAINST THE FREEDOMS AND RIGHTS OF HUMANS AND CITIZENS
3 - CRIMES AGAINST ELECTIONS AND VOTING
4 - CRIMES AGAINST WORK RELATIONS
5 - CRIMES AGAINST HONOR AND REPUTATION
5.01 Defamation
5.02 Insult
6 - CRIMES AGAINST SEXUAL FREEDOM AND SEXUAL MORALITY
6.01 Rape
6.02 Mediation in conducting prostitution
7 - CRIMES AGAINST MARRIAGE, FAMILY AND YOUTH
7.01 Not paying sustenance (alimony)
8 - CRIMES AGAINST HUMAN HEALTH
8.01 Unauthorized production and release for trade of narcotics, psychotropic substances and precursors
8.02 Enabling the tasking of narcotics, psychotropic substances and precursors
9 - CRIMES AGAINST ENVIRONMENT
10 - CRIMES AGAINST PROPERTY
10.01 - Theft
10.02 - Severe theft
10.03 - Robbery
10.04 - Embezzlement
10.05 - Fraud
10.06 - Extortion
10.07 - Usury
10.08 - Covering up
11 - CRIMES AGAINST CULTURAL MONUMENTS< ARCHIVE MATERIALS AND NATURAL RARITIES
12 - CRIMES AGAINST PUBLIC FINANCES, PAYMENT OPERATIONS AND THE ECONOMY
12.01 Counterfeiting money
12.02 Prohibited trade
12.03 Trafficking
12.04 Tax evasion
12.05 Falsifying or destruction of business books
13 - CRIMES AGAINST THE GENERAL SAFETY OF PEOPLE AND PROPERTY
14 - CRIMES AGAINST SAFETY IN PUBLIC TRAFFIC
14.01 Endangering traffic safety
14.02 Severe crimes against safety of people and property in traffic
15 - CRIMES AGAINST THE STATE

16 - CRIMES AGAINST THE ARMED FORCES
16.01 Not responding to a summons and avoiding military service
16.02 Avoiding military service by incapacitating or deceit
17 - CRIMES AGAINST OFFICIAL DUTY
17.01 Misuse of official position and authorized
17.02 Receiving a bribe
17.03 Falsifying an official document
18 - CRIMES AGAINST THE JUDICIARY
18.01 Giving a false statement
19 - CRIMES AGAINST LEGAL TRAFFIC
19.01 Falsifying a document (forgery)
19.02 Using a document with false content
20 - CRIMES AGAINST THE PUBLIC ORDER
20.01 Preventing an official person in performing an official act
20.02 Attack upon an official person, when performing security activities
20.03 Act of violence
20.04 Autocracy
20.05 Unlawful keeping weapons or explosive materials
21 - OTHER



Macedonia Court Modernization Project

11 Oktomvri 40, 3rd. Floor, 1000 Skopje
Tel: (389 2) 3215-095: Fax: (389 2) 3231-212
info@courtmodernization.com
www.courtmodernization.com



July 8, 2004

Pilot Court *Pending* and *Closed* Surveys: Sample Sizes

<i>Court</i>	Closed Cases		Pending Cases	
	<i>Total Cases</i>	<i>Sample</i>	<i>Total Cases</i>	<i>Sample</i>
Bitola	771	257	486	215
Kocani	239	148	107	84
Kriva Palanka	185	125	76	64
Prilep	351	184	217	139
Stip	293	166	490	216
Struga	164	115	107	84
Tetovo	383	192	207	135

MS EXCEL CASE SURVEY DATA ELEMENTS AND FORMULAS REQUESTED

CLOSED CASES

1. **Total** population of randomly selected survey sample broken down by:
 - a. **Represented by Counsel:** Number *and* percentage of cases where an attorney represents one or more parties.
 - b. **Type of Charge:** Broken down by number *and* percentage of total sample using **First Charge Listed** and **Code List A**; ability to produce bar or pie chart of breakdown.
 - c. **Defendant detained:** Number *and* percentage of total sample where the defendant is detained; *furthermore*, number *and* percentage of “detained” cases in relation to charges (first charge listed per case) in **Code List A** *and* ability to produce pie or bar charts for the above.
 - d. **More Than One Defendantss:** Number *and* percentage of cases where there are more than one defendant per case.
 - e. **Date First Event Scheduled/Number of Postponements (trials):** Mean, median *and* mode numbers of postponement/hearing/trial dates per case; percentage of same; ability to produce bar or pie chart of breakdown.
 - f. **Each Hearing:** Ability to analyze what happened at each hearing **by Code List B**; ability to produce bar or pie chart of breakdown by number *and* percentage.
 - g. **Type of Disposition:** Number *and* percentage of total sample of dispositions sorted by type sample using **Code List C**; ability to produce bar or pie chart by type of charge; ability to show correlation **BETWEEN** type of charge *and* type of disposition, *if any*; ability to show correlation **BETWEEN** total time elapsed and type of disposition or type of charge.
 - h. **Appeal Filed:** Number *and* percent of total population of cases where an **appeal** is filed; ability to produce bar or pie chart of breakdown; ability to

show correlation **BETWEEN** type of charge **and** whether case is appealed, if any.

- i. **Case Appealed By?:** Number **and** percent of total population of cases appealed by each of prosecution **and** defense.

2. **Elapsed** time calculated:

- a. **BETWEEN** date case originally filed **and** date case disposed of or closed by *trial* court.
- b. **BETWEEN** date of police notice initiating investigation **and** date case filed.
- c. **BETWEEN** date of police notice initiating investigation **and** date case disposed of or closed by trial court.
- d. **BETWEEN** date case originally filed **and** date of **first** event scheduled.
- e. **BETWEEN** date of first event scheduled **and** next subsequent event(s).
- f. **BETWEEN** date of **preceding and next** subsequent event scheduled, e.g. **BETWEEN** first hearing and second hearing, **BETWEEN** second hearing and third hearing, **BETWEEN** third hearing and fourth hearing, **BETWEEN** fourth hearing and fifth hearing, et cetera.
- g. **BETWEEN** date case disposed of or concluded **and** last event scheduled (if deemed relevant).
- h. **BETWEEN** date the appeal filed **and** date appellate court decision filed.

3. **Summary** narrative statement of unusual or unique problems identified (no more than one sentence per case identified).

PENDING (OPEN) CASES

1. **Total** population of randomly selected survey sample broken down by:

- a. **Type of Charge:** Broken down by number *and* percentage of total sample using **Code List A**; ability to produce bar or pie chart of breakdown.
- b. **Age of Case:** July 1, 2004 *minus* the **Date Complaint Filed** to show the age of each pending case **in calendar days**; ability to break down by **number and percentage** of cases: less than six months old, six months old, one year (*or less*) old, one to two years old, two to three years old, three to four years old, four to five years old, *and* any pending cases older than five years.

2. **Elapsed** time calculated **BETWEEN**:

- a. **Date Complaint Filed and Date of Last Scheduled Event (trial date).**
- b. **July 1, 2004 and Date of Last Scheduled Event.**



Macedonia Court Modernization Project

11 Oktomvri 40, 3rd. Floor, 1000 Skopje
Tel: (389 2) 215-095; Fax: (389 2) 231-212
info@courtmodernization.com
www.courtmodernization.com



July 9, 2004

Interim Report

CRIMINAL CASE PROCESSING IN MACEDONIA BASIC COURTS— A PRE-SURVEY REVIEW OF WHAT WE KNOW

Richard B. Hoffman, Consultant

I. Initial Assessment Based on Results of Continuance Pre-Test

The purpose of this initial assessment of criminal case processing in the Macedonia Basic Courts is to propose several possible areas for examination once significant data have been gathered during the Pilot Court Closed Criminal Case Survey and the accompanying Pending Criminal Case Survey in those same pilot courts. Reference will be made to the results of the Continuance Pre-Test conducted in the seven pilot courts during April 2004, and to the various interim reports of backlog and delay reduction results provided by the pilot court coordinators in March and April 2004.

The limited pre-test disclosed that continuances were granted in roughly one-third of the cases in the sample.¹ Of those cases in which continuances were granted, about 29 percent of the cases had three or more continuances granted, compared to 32 percent with two continuances, and 39 percent with only one continuance. At the time of the pre-test, these cases ranged in age between three and six months: 13 percent had not yet been scheduled for a first hearing.²

Further information was collected concerning the reasons for continuances. Almost 50 percent of the continuances were granted at the request of the defense and the majority of these were sought because the defendant was not present. Most of the rest of the continuances were granted in equal numbers at the request of the prosecution or because of “delivery problems” involving notification of parties, witnesses, or experts. In revising the data collection forms for the closed criminal case survey, provision has been made to include more specific identification of the delivery problems; moreover, another category has been established for continuances

¹ Each court identified for its sample the first ten criminal cases filed in the court for each of the months of October, November, and December 2004.

² Cases completed but in which an appeal remained pending were not counted. In that a sizeable number of appealed cases are returned to the Basic Courts for further proceedings, the reported percentage of completed cases in the pre-test is likely low.

granted by the court when testimony has been taken or evidence received but there was insufficient time to complete the proceedings.

Three areas that were highlighted by the pre-test are likely subjects for further analysis once complete data are obtained. First, the continuance data will permit determination of whether the lack of continuous trials is a significant contributing factor to delay. Second, the extent to which proceedings are delayed by problems of notification of witnesses, parties, counsel, or experts will also be gauged. Third, it should be possible to determine if there are particular attributes of cases that tend to lead to delay, viz., multi-defendant cases or certain offense charges. Based on an earlier compilation of different mechanisms used in the pilot courts to reduce backlog and delay in case processing, it may also be possible to show whether any of these have had particular effect on the pace of criminal litigation.

II. Some Tentative Findings From the First Survey Test Site

Data were collected at the first test site for the 2004 Closed and Pending Criminal Case Survey in the Macedonia Basic Courts through seven pilot courts on July 6 and 7, 2004. More than 300 cases were examined, either through review of the case file or inspection of appropriate entries in the court case registers.

A. Continuances

Continuance data were obtained from court case files in approximately 126 closed cases. In the remaining closed cases in the sample, some data were obtained from review of the case registers but are not included in this analysis because there is some doubt as to whether all continuance information is entered in the registers in a timely manner or at all.

Nearly 70% of the cases (69.8%; n=126) were continued at least once. This indicates that there is likely very little expectation in most cases that the case may be disposed of at the first scheduled hearing. This hearing occurs after the prosecution acts to initiate the proceeding—not immediately after an arrest—so it is not unreasonable to expect that it could be possible to dispose of cases at this event: such disposition occurs in many other jurisdictions.

More than 10 percent of the total cases (10.3%) were continued ten or more times. This discloses a situation where there effectively is no real management of the progress of the case. When cases with five or more continuances—still a large number—are considered, a total of 16 percent of the cases are also scheduling many events at which nothing of significance likely occurs.

The most common reasons for continuances disclosed by a thorough but unsystematic review of the data are defendants failing to appear even when properly notified and defendants not being properly notified (and failing to appear). These two situations account for a clear plurality and perhaps more of the sampled cases with continuances. In only a modest number of cases, a continuance and sometimes a second one were granted for the purpose of hearing more evidence. A similarly small number of cases required continuance for receipt of an expert's report.

Despite the existence of significant problems of notification, relatively few defendants appear to be detained in jail prior to conviction. In less than eight percent of the cases sampled was a defendant held in jail prior to trial or conviction. In the few cases where a defendant was detained, the detention appeared to last for approximately one to two months.

One early conclusion that may be drawn from the first test site data is that the primary obstacle to achieving more expeditious disposition of criminal cases in the Macedonia Basic Courts is notification. The largest number of problems arose with defendants but there were enough situations where prosecutors and defense counsel were apparently not notified that the entire subject merits some further consideration. It will be important to determine what the process is for notifying defendants of scheduled court proceedings in their cases. Since the vast majority of defendants are not detained, the onus of notification likely falls on the court once the initiating prosecution act is received by the court. In some jurisdictions, police provide notice of the first court appearance at the time they either arrest and release the defendant or issue a summons or citation for the defendant to appear in court on a specified date. In Macedonia, it would appear to be impossible to follow this practice because the date of first hearing is not able to be scheduled until the prosecution decides to proceed with the case (this is equivalent to an information or an indictment in the U.S. and, in fact, is sometimes referred to as the indictment date, although it appears that the closer translation is “prosecution act”).

It is not any easier to urge that notification of defendants occur through counsel being notified, because counsel may not have been retained or appointed until the first scheduled hearing. Defendants would generally have no counsel until, at the earliest, when the prosecution initiates proceedings—admittedly, this leaves out the entire subject of the defendant’s right to be represented earlier in the case during the police investigatory phase when the case is being directed by the investigation judge.

It will also be important to learn more about the problems of notifying both prosecutors and defense counsel of hearings, as there should be far less reason for these lawyers not to receive proper notification. The problem of notification presumably only should exist for defendants for the first scheduled hearing since it is proper to notify the defendant and the other participants in the hearing of the next scheduled hearing by announcement in court at the instant hearing.

The notification issue is closely related to the general problem of serving process and executing judgments. There are court police and execution judges who attend to these functions. In situations where defendants do not appear and appear not to have been notified of hearings over and over again, it apparently is sometimes the case that a defendant will effectively “refuse delivery of service”. In criminal cases, this act, in many jurisdictions, would result in the issuance of a bench warrant by the court, followed by an arrest by the police.

B. Last Scheduled Events

Review of the data collected for pending cases at the first site discloses that a rather small number of cases—23.5% of cases that had been filed more than 30 days earlier—had a last

scheduled event, that is, an event in the case that occurred after the date of the first scheduled hearing. (Cases over 30 days old accounted for 81% of the pending cases.) This suggests that the criminal case process is not now doing what is required to ensure that pending cases proceed promptly to disposition. One of the precepts of modern caseflow management is that every case should always have a next scheduled event. In this way, no case gets lost in the process. It is important, of course, as has been discussed earlier, that every scheduled case event be a meaningful one, so as not to waste the time of the participants and lose the time needed by other cases. If a case has not had a scheduled event since the first hearing, it is likely that the court has not acted to ensure that the case progresses toward disposition as expeditiously as possible.

C. Other Issues

It will be highly illuminating if one of the indications from the data reviewed from the first test site is borne out by the results of the complete survey: the rather few instances in which a case hearing was continued to receive more evidence than it was possible to consider on the one day. It has often been asserted that lack of continuous trials, that is, trials that continue on each consecutive court day until the trial is completed, is a significant cause of delay in civil-law countries. This is because there are no petty juries charged with fact-finding responsibility in these jurisdictions, and in common-law nations, trials are continuous because of the need to proceed with a case before the petty jury once it is impaneled in order to complete the jury's service in the shortest possible time so as to minimize the disruption to these citizens' lives.³ Macedonia, as with other civil-law nations in Eastern Europe, does have jurors, but these are citizens who have been selected to be permanent jurors serving in those cases where their participation as citizens is regarded as providing useful contribution to the court in rendering a verdict. Their function is not so different from Anglo-American common law juries but their lengthy service means that the court is not placed under the same constraints to complete trials expeditiously.

D. Further Learning Objectives From the Surveys

The closed case survey has been designed to collect a large number of different data elements. One of the objectives of the survey is to identify discrete sectors of the criminal process that will benefit from more intensive examination than is possible even with a survey instrument as detailed as the instant one. In this sense, this is a truly diagnostic survey, designed to disclose particular issues for follow-up.

1. Investigative phase. By collecting the date of the police notice initiating an investigation of a case, the closed case survey will enable the courts to learn how long this phase is taking to complete, in comparison with the case in court that would normally begin with the date the prosecution act is filed in court. In criminal justice systems everywhere, this phase is increasingly viewed as a critically important phase because it provides the investigation judge,

³ In common-law countries where there are truly miniscule numbers of jury trials in contrast to "court trials," that is, trial before a judge alone, it has been seen that some civil-law practices have crept into the process, viz., judges are sometimes willing to postpone the next trial day for a week or month since there is no jury to require that the trial proceed to conclusion once it starts.

the prosecutor, and the police with an early opportunity to weigh the evidence developed so to determine how serious the case is and how strong the evidence will be when brought to trial. The aim is to encourage these officials to exclude at this relatively early point in the process those cases that are destined to be discarded prior to verdict so as to save court time, system resources, and impact on defendants and witnesses.

2. **Detention practice.** The closed case survey is collecting data that includes whether a defendant was ordered detained by the court and the date of detention. Although the early indications from only one court appear to show a relatively low level of detention, it will important to learn (1) whether that is similar to the practice in the other pilot courts and (2) how courts respond to detention in a case in terms of steps taken to expedite the process toward disposition.

3. **Dispositions.** The closed case survey will show how a case has been completed, with a large number of explanations for dispositions that end a case without a finding of guilty or not guilty. To begin to examine particular dispositions, provision was made for noting when a conditional sentence was imposed. Further assessment of dispositions would include more detailed consideration of different sentencing options and follow-up on actual sentences served. While this is beyond the scope of the instant survey, it again reflects, as with the investigation phase, that it is essential over time to analyze the criminal justice process from beginning to end if truly significant improvements are to be realized.

4. **Appellate phase.** This component of the project is focused on the trial-level Basic Courts, not the appellate-level courts. In coming to understand the impact of the criminal justice process, however, it will become useful to learn for how long the appellate phase extends the operation of the process. This will be measured in terms of how many and which cases are returned to the Basic Courts for further proceedings based on an appellate court decision.

5. **Counsel.** Information is being collected on whether a defendant in a case was represented by counsel. It will be useful in the future to examine how the representation is provided, viz., was the lawyer privately retained or provided at state cost by a public defender or assigned counsel. Reportedly, most defendants manage to retain private counsel and relatively few litigants—civil or criminal—receive representation at public cost. Some examination of how representation is initiated and proceeds in criminal cases will begin to disclose bar practices that affect how the court case proceeds. Pursuit of these kind of data and process review should be undertaken with the cooperation and participation of the bar: over the long run, involvement of the bar in analysis and recommendation of improvements in procedures will benefit the courts by encouraging the bar to act in a more collaborative manner concerning the judicial process.

Appendix A

CONTINUANCE PRE-TEST—CRIMINAL CASES

Court	Number of cases	Total resolved	1 Contin	2 Contin	3+ Cont	Cases contind	NotSchdfor 1 st Hearing
Tetovo	30	19	6	4	3	13	9
Prilep	30	19	6	4	5	15	0
Struga	30	19	4	2	4	10	4
Bitola	30	17	3	3	2	8	7
KrivaP.	33	27	3	5	2	10	0

Included under total resolved are cases on appeal; cases under investigation are not included in the chart.

Reasons for Continuances

Delivery Problems 27

Defense Request 65

Witness Unavailable 4
 Witness Ill 1
 Defendant Unavailable 38
 Defendant Ill 2
 Defendant Flight 18
 Attorney Unavailable 12
 Attorney Ill 1
 Attorney in Trial 6
 New Attorney 2

Prosecution Request 27

Witness Unavailable 14
 Witness Ill 1
 Prosecutor Unavailable 9
 Prosecutor in trial 1
 Evidence not obtained in time 1

Court action 4

Judge Unavailable 3
 Judge Ill 2

Private prosecution settlement 3

Co-defendant absence 4

Stay for observation 1